IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

OP.No. 3816 of 2002(D)

PETITIONER: -

K.G.JOHN, SHALOM,5/1607, ST.VINCENT'S COLONY ROAD, CALICUT 673 001.

BY ADV. SRI.M.C.SEN
SRI.M.P.SREEKRISHNAN
SMT.SHAHNA KARTHIKEYAN

RESPONDENTS:-

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1. GOVERNMENT OF KERALA, REPRESENTED BY PRINCIPAL SECRETARY, FINANCE (PENSION (B) DEPARTMENT SECRETARIAT,TRIVANDRUM.

2. ACCOUNTANT GENERAL (A & E), KERALA, THIRUVANANTHAPURAM 693 039.

3. SUB TREASURY OFFICER, PENSION PAYMANT TREASURY, KOZHIKODE.

BY GOVERNMENT PLEADER SHRI.V.T.K.MOHANAN.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS:-

P1: **Copy of order of the 1st respondent G.O.Rt.No.1986/77/LA&SWD dated 4-7-1977 to the petitioner and others.**

P2: **Copy of order of the 2nd respondent No.PR.1/291/DD/419 Pen.A/77-78, Trivandrum, 24-8-77.**

P3: **Copy of order of the 1st respondent GO.Rt.NO.3155/77/Fin., Trivandrum, dtd.9/9/1977.**

P4: **Copy of recommendation letter of the Director of Municipal Administration, No.B1-4047-99, dtd.4-5-99.**

P5: **Copy of representation of the petitioner to the 1st respondent, dtd.16-6-99.**

P6: **Copy of order of the 1st respondent to 3rd respondent and copy to the petitioner, No.55810/A/Pen.B1/99/Fin, Trivandrum dtd.5-8-99.**

P7: **Copy of order of the 2nd respondent, PR1/PenA/291/DD/77-78 902, dated 17-9-99 to the 1st respondent.**

P8: **Copy of the letter of the petitioner to the 1st respondent dtd.23-9-99.**

P9: **Copy of letter of the 2nd respondent to the Sub Treasury Officer, Sub Treasury, Kozhikode No.PAB/Case/1435/K 1014, dt.15-10-99.**

Respondents' Exhibits:-

Ist Respondent's Exhibits:-

R1(a): Copy of the G.O.(P) No.1288/2000/Fin., dtd.4-11-2000.

(True copy)

kvs/-

P.A. To Judge.

T.R.RAMACHANDRAN NAIR, J.

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O.P.No. 3816 of 2002-D.

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Dated this the 22nd day of June, 2007.

J U D G M E N T

The petitioner is aggrieved by the non-consideration of the claim of the petitioner for payment of proper amount of pension on the basis of the services rendered by him under the Government. The short facts leading to the case is the following.

2. The petitioner joined the Department of Municipality on 4.10.1955 as a Clerk. He was deputed to Kerala Urban Development Finance Corporation with effect from 1.3.1970 while he was working in the Directorate of Municipalities. At that time he had completed more than 14 years of service. The service in the Kerala Urban Development Finance Corporation is not pensionable.

3. After retirement from service he submitted a representation to the Government for sanction of pension based on which Ext.P1 order was passed by the Government. Ext.P1 will show that the petitioner was deputed to the Kerala Urban Development Finance Corporation and was absorbed permanently to the Corporation from the date of his deputation. The Director of Municipalities had recommended the representation of the

petitioner for sanction of pension as he had forsaken all his claims not voluntarily but as insisted by the Kerala Urban Development Finance Corporation and the Government. The Government granted pension to the petitioner as a special case. Ext.P2 shows that he was granted a pension of Rs.42/- p.m. with effect from 1.3.1970 and a gratuity of Rs.1,743/- payable in lump.

4. It appears that the petitioner again moved the Government for sanctioning of minimum pension as he was granted only a paltry sum of Rs.42/-. Ext.P4 shows that the Director of Municipal Administration addressed the Secretary to Government, Local Administration (A) Department for favourable consideration of his representation for getting minimum pension. Ext.P5 is a representation submitted by the petitioner also before the Secretary to Government, Finance (Pension -B) Department to consider his representation dated 27-1-1999 given to the Hon'ble Chief Minister in the light of the recommendation of the Director of Municipal Administration. The petitioner requested that sanction may be issued for the payment of enhanced rates of pension to him. Meanwhile, by Ext.P6, the Principal Secretary, (Finance), issued a letter addressed to the Sub Treasury Officer concerned directing to revise the existing minimum pension of Rs.42/- sanctioned to the petitioner in accordance with the pension revision order

issued by the Government from 1-7-1978 onwards as the pensioner is eligible for such periodical revision.

5. It appears that by Ext.P7 the Senior Accounts Officer of the Accountant General informed the Government that the pro rata pensioners are not entitled to the minimum pension from time to time as admissible to service pensioners. On coming to know about the same the petitioner submitted a detailed representation Ext.P8 to the Principal Secretary, Finance Department requesting to enhance the existing minimum pension in accordance with the pension orders issued by the Government from 1-7-1978 onwards as already directed in Ext.P6. Ext.P9 is again a communication issued by the Senior Accounts Officer to the Sub Treasury Officer, Kozhikode.

6. The main prayer of the petitioner to to quash Exts.P7 and P9 and for a direction to the respondents to grant a minimum pension with arrears after revising the same.

7. The respondents have filed a counter-affidavit wherein the Government Order - GO(P).No.1288/00/Fin. dated 4.11.2000 has been produced. It is averred in the counter-affidavit that pro rata pensioners like the petitioner comes within the purview of GO(P).No.174/68/Find. dated 2.5.1968 and from 4.11.2000 as per Ext.R1(a) they will be eligible for revised

pension from November, 2000 in accordance with the terms of that order.

8. The substantial contention of the petitioner is that in view of the fact that the petitioner had completed 14 years of service in the Government and also that his service under the Kerala Urban Development Finance Corporation is not pensionable he is eligible for enhacement of minimum pension. According to the petitioner, he had to forgo the claims at that time because of the insistence of the Government and the Corporation and it was not a voluntary act. Therefore, the petitioner's prayer is to consider his case as a special case and sanction a respectable amount as monthly pension as the amount now he is getting is only a paltry amount. It is pointed out that Ext.P6 should have been acted upon.

9. It is pointed out by the Government Pleader that from 2000 onwards the petitioner is getting a minimum pension as authorised by Ext.R1(a). It is seen that the Director of Municipal Administration by Ext.P4 had requested the Government to favourably consider the representation of the petitioner for getting minimum pension. The petitioner had also moved the Government as per Ext P5 wherein he has laid upon various Government Orders issued from time to time. Exts.P5 and P8 remains unanswered. Since it is for the Government to take a decision as per the request made by the petitioner, I direct the first respondent to take a decision on Exts.P5 and P8

on its merits as requested for by the petitioner to consider it as a special case. Appropriate orders will be passed within a period of four months from the date of receipt of a copy of this judgment. If the petitioner wishes to file any fresh representation the same may be forwarded within one month along with a copy of this judgment.

The Original Petition is disposed of as above.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-